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Taxpayers' Rights in Kosovo

Honors Society Project

Presented to

The Academic Faculty

By

Herolinda Zenuni

In Partial Fulfillment

of the Requirements for Membership in the
Honors Society of the American University in Kosovo

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Abbreviations

AD – Appeals Division

CIT – Corporate Income Tax

EU – European Union

IFRS – International Financial Reporting Standards

IMF – International Monetary Fund

IRB - Independent Review Board

MEF – Ministry of Economy and Finance

MTI – Ministry of Trade and Industry

OECD – Organization for Economic Co-operation and Development

PIT – Personal Income Tax

TAK – Tax Administration of Kosovo

UNMIK – United Nations Mission in Kosovo

USAID – United States Agency for International Development

VAT – Value Added Tax

Abstract

Tax revenues constitute a large portion of budget revenues in Kosovo; therefore, an effective tax system is of utmost importance, especially since Kosovo remains a country in development. This report focuses on a specific section of the tax system which is the taxpayers' rights, and analyzes cases where such a system fails to respect these rights. Specifically, the analysis is conducted by focusing on the level of education among taxpayers regarding their rights and cases of violations reported by taxpayers. This report presents a critical review of the factors leading to the violation of taxpayers' rights and the consequences of such violations; and ultimately, it attempts to identify possible solutions for increasing the awareness among taxpayers of their rights and reducing the cases of their violation.

This research is conducted using a qualitative methodology. It combines literature review and analysis of current Tax Administration of Kosovo (TAK) publications, the tax legislation of Kosovo, as well as a collection of primary data gathered through interviews and two small-scale surveys. Among the 11 interviews conducted, there are several stakeholders from the Ministry of Finance, Tax Administration of Kosovo as well as the business community. The surveys were conducted with two groups of taxpayers: large taxpayers, namely the corporations and small individual taxpayers. The information gathered from the surveys and interviews shows that there is a low level of awareness among taxpayers regarding their rights and there are issues with enforcing them, especially with inefficient investigation procedures.

The greatest concern regarding taxpayers' rights results to be the violation of the right to pay no more than the correct amount. By being illegitimately and unfairly charged more than the correct amount liable, taxpayers face unforeseen financial difficulties. In some cases this has resulted in significant losses for companies which have had to lay off employees and pay additional costs to defend themselves. Moreover, the right to appeal, which in principle should serve to protect taxpayers from any unjust and unlawful actions, is not exercised by taxpayers in many cases due to the long and costly procedure. As a result, complying with the law becomes more expensive for taxpayers, consequently creating barriers for doing business in Kosovo as well as incentives for evading taxes.

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Problem Statement

The purpose of this report is to identify and analyze the problems related to the realization of taxpayers' rights in Kosovo. Specifically, in this report I investigate the factors that are leading to the situations in which taxpayers' rights are violated, the consequences for taxpayers and our community due to this violation as well as I provide possible solutions through which the issues could be resolved. The relevance of this research stems from the fact that there is lack of a comprehensive analysis about the impediments to the realization of taxpayers' rights in Kosovo. There are two characteristics which make the issue of taxpayers' rights in Kosovo particularly important to consider: the fact that government revenues heavily depend upon the collection of taxes and the tax system is based upon a self-assessment of tax obligations. Therefore, an efficient and effective tax system is paramount for securing government revenues and thus reaching budget sustainability. A good tax system encompasses a successful enforcement and respect for both taxpayers' rights and obligations.

In Kosovo, there is little attention given to taxpayers' rights both by the tax authorities and taxpayers themselves which leads to cases of violations of taxpayers' rights. This problem is heightened by the low level of awareness among taxpayers regarding their rights as well as the complexity and ambiguities of the tax legislation, due to which in some cases taxpayers are not even aware when their rights are being violated. Further on, the perception of long and exhaustive procedures, as well as the uncertainty about losses versus gains from this process results in taxpayers hesitating to appeal to TAK. These issues related to taxpayers' rights in Kosovo hinder the attainment of an efficient and effective tax system since greater voluntary compliance is based upon a sense of fairness and trust among taxpayers towards the tax authorities, which can only be built upon a system which treats taxpayers fairly and according to their rights.

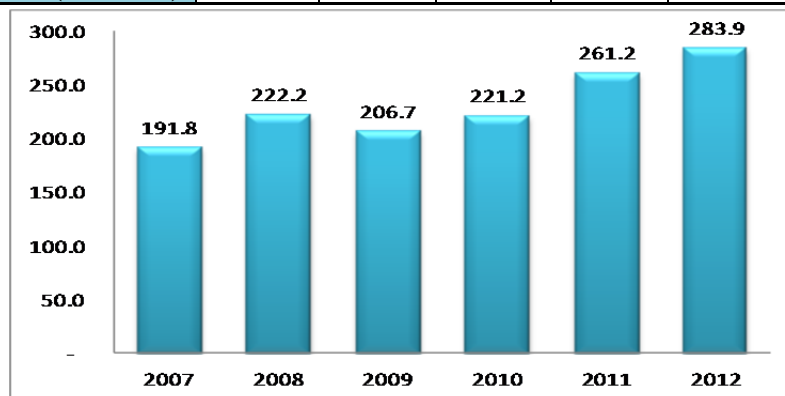
The tax system also has an impact on the attractiveness of a country for foreign investments. It is the design and the effectiveness of the tax system which influences foreign investors' decisions to invest in a country. Foreigners will only invest in a country in which they find a stable tax system and favorable taxing policies, including a respect for their rights. Thus, the tax system becomes an important factor of economic growth especially in developing economies.

Background Information

Kosovo's Tax System

Following the war, Kosovo had to establish its fiscal structure from scratch, design its tax system and establish the institutions responsible to enforce and implement such policies¹. Having to do so has been on the one hand an advantage, due to the fact that starting from scratch has enabled Kosovo to establish its tax system based on best practice from other countries, but on the other hand, it has also presented Kosovo with many difficulties in managing it. The authority responsible for the administration of taxes in Kosovo is the Tax Administration of Kosovo (TAK). TAK was established under UNMIK guidance, on January 17, 2000². The authority was then transferred, in February 2003, from UNMIK to the Ministry of Economy and Finance (MEF). Since then, TAK has operated under the direction of local authorities, with support and guidance from international donor organizations, among others IMF, USAID, and the EC³. Being responsible for tax collection, TAK has recorded an overall gradual increase in the revenues collected during the years, as shown in the table below:

Year	2007	2008	2009	2010	2011	2012
Total revenues(millions)	191.8	222.2	206.7	221.2	261.2	283.9



Source: Annual Report (2012). Tax Administration of Kosovo

¹ Corker, Rehm and Kostial (2001). Kosovo: Macroeconomic Issues and Fiscal Sustainability. IMF. Pg 7

² Kida, N. (2013).

³ Tax Administration of Kosovo Compliance Strategy 2012-2015.

Tax Structure/Base in Kosovo

Kosovo's ratio of revenues to GDP is around 21%.⁴ The tax period in Kosovo consists of the calendar year.⁵ The tax system in Kosovo is based on self-assessment and voluntary compliance. This means that taxpayers determine their tax obligations on their own and submit their payments voluntarily.⁶ The tax base in Kosovo consists of three main taxes:

- PIT - Personal Income Tax
- CIT - Corporate Income Tax
- VAT - Value Added Tax

Other taxes include the excise tax, customs duties, the withholding tax and other local taxes; however, the focus of this study is on the three main taxes, namely PIT, CIT and VAT⁷.

As of January 2009, a change in the tax rate has been applied which resulted in significantly lower tax rates. The current tax rates are as follows⁸:

Personal Income Tax Rates		
Annual Income	Monthly Income	Tax Rate
960	0 - 80	0%
960 - 3,000	80 - 250	4%
3,000 - 5,400	250 - 450	8%
Over 5,400	Over 450	10%
Corporate Income Tax Rate		
10%		
Value Added Tax Rate		
16%		

Personal Income Tax

Any individual currently earning income from a wage in Kosovo, be that a resident or non resident is considered an employee and is subject to personal income tax⁹. According to Article 3 of the Law on Personal Income Tax, "taxpayers are resident and non-resident natural persons, personal business enterprises, partnerships, or associations of persons who receive or accrue

⁴ Gashi (2011). Taxation – A Critical Discussion of the Present Tax System in Kosovo. Pg 26

⁵ KPMG (2011). Investment in Kosovo. Pg 23

⁶ TAK, Compliance Strategy 2012-2015, pg 6

⁷ KPMG (2011). Investment in Kosovo. Pg 23

⁸ Handbook on Taxes in Kosovo (2007). Tax Administration of Kosovo

⁹ Handbook on Taxes in Kosovo (2007). Tax Administration of Kosovo

gross income during the tax period.”¹⁰ According to Article 4 of this law, the taxable income for a resident “shall be taxable income from Kosovo source income and foreign source income,” while for non-residents the object of taxation “shall be taxable income from Kosovo source income.”¹¹ Taxable income is the difference between the gross income which the taxpayer receives or accrues during the tax period and allowable deductions as stated by the law. Article 7 of the Law on Personal Income Tax defines gross income as income received from: wages, rents, intangible property, interest, replacement income, capital gains, lottery winnings, pensions, and economic activity generated by a business that has a total turnover of 50,000 EUR or less.¹² Based on Article 37 of the Law on Personal Income Tax, a taxpayer in Kosovo who earns income from a place outside of Kosovo and pays taxes in that country for such income is allowed a tax credit in Kosovo for the amount of tax paid in the foreign country.¹³

Personal income tax is to be withheld by the employer after deducting the employer’s pension contribution. If the employee has two jobs, they must determine their principal employer and all other employers other than the principal are considered secondary. Although personal income tax is withheld by the employer, at the end of the year, taxpayers may end up with credits in their accounts for which they have the right to make a claim for reimbursement¹⁴. Income which accrues to a taxpayer from their economic activity, based on the Law on Personal Income tax is paid quarterly, at the end of each quarter, no later than: 15th of April, July, October and January.¹⁵

Corporate Income Tax

CIT is the tax paid on the income of corporations. Only entities with the required legal form are obliged to pay the CIT of 10%. While both residents and non-residents with a permanent establishment in Kosovo are obliged to pay corporate income tax on the income they gain in Kosovo, non-resident taxpayers have the right to request an official document by the Tax Administration in Kosovo to prove to their resident state the amount of taxes they have paid

¹⁰ Tax Legislation of Kosovo, 2011, pg. 391

¹¹ Tax Legislation of Kosovo, 2011, pg. 391

¹² Tax Legislation of Kosovo, 2011, pg. 394

¹³ Tax Legislation of Kosovo, 2011, pg. 446

¹⁴ Handbook on Taxes in Kosovo (2007). Tax Administration of Kosovo

¹⁵ Tax Legislation of Kosovo, 2011, pg. 460

while doing business in Kosovo. As a result, they have the right to credit the same amount from their resident state¹⁶.

Value Added Tax

Value Added Tax (VAT) is the tax on consumption which is paid by all consumers when they purchase goods or services from any entity which is registered as a VAT filer¹⁷. Entities which are required to be registered for VAT are those that have a turnover of 50,000 € or more in one calendar year. While such persons that exceed this threshold are obliged to register for VAT within 15 days of exceeding it, other persons who do not exceed the 50,000 € turnover may also register for VAT on a voluntary basis, the registration will be effective the day the request is received¹⁸. The same rules will also apply to the person registered voluntarily as to those that are obliged to do so. The taxable person has the right to cancel the registration for VAT if their turnover for the past 12 months falls below the threshold of 50,000 €. VAT becomes chargeable at the moment of supply of goods or services or when they are imported.¹⁹

As of January 2009, the VAT rate in Kosovo is 16%²⁰. VAT is 0% for international transport, exports and agricultural inputs. For VAT filers, there are two categories of VAT tax: output VAT and input VAT, and the difference between the two results to be either “VAT payable” (the amount the taxpayer is liable for) or “tax paid in excess” (the amount that the taxpayer has the right to claim a refund). Output VAT is the tax collected from sales, i.e. from consumers, while input VAT is the tax paid for imports or local purchases, i.e. from suppliers. Each taxable person is assigned a unique fiscal number.

Article 36 of Law No. 03/L-146 explains the taxpayers’ right to deduct VAT. According to this law, “the right to deduct VAT shall arise at the time when the VAT becomes chargeable.”²¹ Following this law, taxpayers have the right to deduct input VAT for the goods and services purchased if they intend to use such goods or services in activities related to their economic activity. These goods or services may be supplied by another taxpayer in Kosovo or they can be

¹⁶ Handbook on Taxes in Kosovo (2007). Tax Administration of Kosovo

¹⁷ Handbook on Taxes in Kosovo (2007). Tax Administration of Kosovo

¹⁸ Tax Legislation of Kosovo, 2011, pg. 283

¹⁹ Tax Legislation of Kosovo, 2011, pg. 303

²⁰ Handbook on Taxes in Kosovo (2007). Tax Administration of Kosovo

²¹ Tax Legislation of Kosovo, 2011, pg. 328

goods or services imported from outside Kosovo. Input VAT is deducted from the VAT liability of the taxpayer. In cases where deductible VAT exceeds VAT due, taxpayers end with a credit balance in their account, where they can either transfer the excess forward to the next tax period or file a refund claim through which they will receive the excess amount.²² Once the taxpayer submits a request, the reimbursement should be made within 60 days of filing the request. If the reimbursement is not made within this time-frame, interest should be calculated for the delay.²³

Taxpayers' Rights

Taxpayers' rights only started being discussed more thoroughly by the end of the 20th century, as a run-off topic from the concept of human rights and their protection. The formal definition of taxpayers' rights is:

“Written or unwritten rules that are intended to protect taxpayers against tax levying by tax authorities, which tax levying could be illegal from the point of view of taxpayers.”²⁴

Since tax authorities in each country face different environments, all the specific details of taxpayers' rights are not the same across countries; however, in general, taxpayers' rights should be similar from country to country. In 1990, OECD published *“Taxpayers' rights and obligations – A survey of the legal situation in OECD countries”* which found that although many of the countries then did not have a specific Taxpayers' Charter, they all included the following rights of taxpayers in their tax system²⁵:

- The right to be informed, assisted and heard
- The right of appeal
- The right to pay no more than the correct amount of tax
- The right to certainty
- The right to privacy
- The right to confidentiality and secrecy

²² Tax Legislation of Kosovo, 2011, pg. 335

²³ Tax Legislation of Kosovo, 2011, pg. 338

²⁴ A. van Rijn, *A Comparative Study of Taxpayer Protection in Five Member Countries of the European Union, Taxpayer Protection in the European Union*, op. cit., p. 45; Cited in: Brzeziński, “Taxpayers' Rights: Some Theoretical Issues”, pg 19.

²⁵ OECD, *Taxpayers' Rights and Obligations – Practice Note*, pg 3

However, while the protection of taxpayer rights is an important factor in the effective functioning of the tax system, such rights are inseparable from taxpayer obligations. If tax authorities are to commit to respecting taxpayers' rights and treating them accordingly, taxpayers also are responsible for meeting their obligations towards the authorities. These rights also imply the basic obligations of taxpayers, which are:²⁶

- The obligation to be honest
- The obligation to be co-operative
- The obligation to present the true information and documents on time
- The obligation to keep records
- The obligation to pay taxes, the correct amount and on time.

Such rights and obligations have also been found stated in the Tax Legislation of Kosovo.

Significance of taxpayers' rights

Taxpayers' rights are established in order to protect taxpayers in relation to the tax authorities and to enhance the relationship between the two, because as research has shown, a good relationship between taxpayers and tax authorities is vital for an effective tax system. If there is a good relationship between the two, meaning that taxpayers' rights are respected by tax authorities, voluntary tax compliance improves and the risk of tax revenues decreases.²⁷ According to Bentley (2002), taxpayers' rights "open up the tax system," increase transparency in the administration of tax, increase taxpayers' certainty in the law and ensure that there is accountability in the services offered by the tax authorities.

The purpose of tax authorities is to make sure that tax laws are complied to. The effectiveness of tax authorities depends on different factors, such as the economy itself, but among others, it also depends on the taxpayers' willingness to comply with the tax legislation and rules.²⁸ Tax authorities can improve both their image in the public and the organization of their work process by continuously adopting recent technologies and opening their operations to

²⁶ OECD, Taxpayers' Rights and Obligations – Practice Note, pg 3

²⁷ Bentley (2002). The significance of declarations of taxpayers' rights and global standards for the delivery of tax services by revenue authorities

²⁸ OECD (2001), Principles of Good Tax Administration – Practice Note, pg 3

testing and benchmarking in order to achieve “best practice.”²⁹ OECD best practice research also points to the fact that encouraging and facilitating voluntary compliance by taxpayers should be the main focus of tax authorities. The degree of voluntary compliance by taxpayers is related to the relationship between tax authorities and taxpayers because the way in which tax authorities interact with taxpayers has a direct impact on the public perception of the system itself.³⁰

According to an OECD study: “taxpayers who are aware of their rights and expect, and in fact receive, a fair and efficient treatment are more willing to comply,”³¹ which builds on the belief that voluntary compliance is increased if there is a good relationship between taxpayers and authorities, especially if taxpayers’ rights are respected and they are treated according to them. However, for voluntary compliance to be promoted, taxpayers’ rights are not the only factor to be considered because apart from having their rights respected, taxpayers also require to use administrative systems and procedures in a simple and easy manner, which is line with the taxpayers’ right to facilitation of compliance.

The importance of taxpayers’ rights is further highlighted by Kasimbazi. According to Kasimbazi (2004), “Existing literature on tax reform points to the fact that consideration of the rights and obligations of taxpayers is central to the overall tax reform strategy.”³² Moreover, he claims that any reform which does not carefully consider taxpayers’ rights “will alienate and create discontent among the citizens.”³³ Further on, Kasimbazi (2004) claims that a good taxation system should be based upon solid and clear legal foundations; tax authorities should not collect more taxes than required by law or enforce them by arbitrary means. A crucial factor in an effective taxation system is for the tax laws to be “binding to both taxpayers and tax authorities.”³⁴ In order for the laws to be binding to both taxpayers and tax authorities, both taxpayer rights and obligations should be clearly stated, enforced and respected.

While taxpayers’ rights should be clearly stated and explained in the tax legislation of a country, in addition to it, there are also declarations of taxpayers’ rights in most countries. Declarations of taxpayers’ rights have an impact on the tax culture among taxpayers and that

²⁹ OECD (2001), Principles of Good Tax Administration – Practice Note, pg 3

³⁰ OECD (2001), Principles of Good Tax Administration – Practice Note, pg 3

³¹ OECD (2001), Principles of Good Tax Administration – Practice Note, pg 3

³² Kasimbazi, 2004, pg 4

³³ Kasimbazi, 2004, pg 4

³⁴ Kasimbazi, 2004, pg 9

within the tax authorities. As taxpayers' rights are highlighted and respected, the tax authorities take on a service focus, where taxpayers are treated as clients, they receive all the necessary information and assistance and this leads to a modernized tax administration system.³⁵

Taxpayers' rights set out service standards and determine the manner in which taxpayers must be served by the tax authorities. While it is important for taxpayers' rights to be respected by the authorities, these rights are established to facilitate the taxpayers' compliance. The tax authorities should make it "as easy as possible for taxpayers to comply;"³⁶ this way, compliance increases among the taxpayers, but also the punishment for non-compliance increases because even among the community, a tax culture is established that shows little sympathy to those that do not comply in addition to the penalties from the authorities.³⁷

Many studies have shown, as it was also highlighted above, that trust and a good relationship between taxpayers and tax authorities nurture compliance by taxpayers.³⁸ According to Li (cited by Bentley) "taxpayer honesty is contingent, to a significant but un-measurable extent, on the perception and reality that the system treats taxpayers decently and fairly."³⁹ The fact that taxpayers are more likely to trust the tax authorities and comply with the law if they believe that the system is fair and treats them rightfully further on highlights the importance of respecting and protecting taxpayers' rights.

Taxpayers' rights in Kosovo

Based on the tax legislation of Kosovo, taxpayers have the following rights:

- *The right to privacy and confidentiality*
- *The right to professional and courteous service*
- *The right to be informed and to receive clear communications from TAK*
- *The right to be heard by the audit inspector*
- *The right to receive clear communications from TAK, including an audit report that clearly explains the results of the audit and the legal basis for the conclusion reached*

³⁵ Bentley (2002)

³⁶ Bentley (2002)

³⁷ Bentley (2002)

³⁸ Nixha, pg 28

³⁹ Li, Taxpayers' Rights in Canada (cited in: Bentley, Taxpayers' Rights: An International Perspective)

- *The right to appeal*⁴⁰

The right to be served

As a public institution, the Tax Administration of Kosovo's first duty is to serve its citizens, as the TAK director explicitly states in the Taxpayers' Charter: "Our service is a right of every citizen".⁴¹ Therefore, one of the fundamental rights of taxpayers is to be served by the tax authorities. Taxpayers are entitled to fair treatment and good service because of the taxes they pay; in return for their taxes, they "should not only receive goods and services, but also sound governance that is respectful and protective of democratic principles and processes."⁴²

The right to certainty

Another fundamental right of taxpayers is their right to certainty. The right to certainty "requires that taxpayers' rights and obligations be clearly stated by law."⁴³ In order for this right to be enforced, the tax legislation, both taxpayers' rights and their obligations, must be brought to the taxpayers' attention.

The right to equality

The right to equality, as one of the basic human rights, ensures that taxpayers are equal in front of the law and they all receive equal protection by the law. This means that taxpayers must receive equal treatment by tax authorities and tax laws must apply equally to all taxpayers.

The right to be informed, assisted, and heard

Further on, taxpayers have the right to informed, assisted and heard⁴⁴. Under the taxpayers' charter, taxpayers have the right to be assisted in completing the required documentation if they seek help. The taxpayer has the right to request further explanations in order to clarify and better understand their rights and obligations.

⁴⁰ Tax Legislation of Kosovo, 2011, pg. 95

⁴¹ Taxpayers' Charter, TAK, 2009, pg 3

⁴² Bentley, D. (2007). Taxpayers' Rights: Theory, Origin and Implementation, pg 118

⁴³ Kasimbazi, 2004, pg 35

⁴⁴ Taxpayers' Charter, TAK, 2009, pg 7

The right to pay only the correct amount

While taxpayers have the obligation to comply by the law and pay their liabilities, they have the right to pay only the amount they are obliged to and to receive a refund when paid in excess, or even earn interest when appropriate⁴⁵. According to Kasimbazi (2004), the right to pay only the correct amount of tax and no more is very important for taxpayers and tax authorities are responsible for making sure that taxpayers do so. While this right seems straightforward, simple and easy to respect, in practice it is difficult because it requires a taxation administration with professional staff who are always willing and able to assist taxpayers in assessing their tax obligations. In order for this right to be respected, the tax legislation must also be clear and concise, so that both taxpayers and tax authorities are aware of their rights and obligations and act according to them. However, according to Kasimbazi (2004), self-assessment of tax obligations remains to be a problem because the majority of taxpayers are not aware of the requirements as stated by the law.

The right to facilitation of tax compliance

In order for taxpayers to comply with their obligations, TAK must facilitate this compliance by ensuring that taxpayers are all treated equally and with courtesy, that they receive assistance when needed, that their enquiries and complaints are listened to and responded to. In order for this right to be respected, TAK must have professional staff who are able to follow the law and assist taxpayers in meeting their obligations towards the tax authorities.

Under the IMF Manual on Fiscal Transparency, it is stated that: “Laws and regulations related to the collection of tax and non-tax revenues, and the criteria guiding administrative discretion in their application, should be accessible, clear, and understandable. Appeals of tax or non-tax obligations should be considered in a timely manner.”⁴⁶

The right to privacy

The taxpayer also enjoys the right to privacy and to withhold any information which is not required to be disclosed according to the law. The right to privacy means that no taxpayer should

⁴⁵ Taxpayers’ Charter, TAK, 2009, pg 8

⁴⁶ IMF (2007). Manual on Fiscal Transparency

be subject to an unlawful inspection of them, their home or property; they shall not be subject to any interference in their life unless required by the law and notified based on the regulations.

The right to confidentiality

In addition to the right to privacy, the taxpayer also enjoys the right to confidentiality and secrecy once their relevant documentation and personal information is disclosed to TAK officials⁴⁷. According to the tax legislation, TAK should only request from the taxpayer certain documents which are required to check if the taxpayer has complied to their obligations and only in cases when it is necessary. The right to confidentiality is stated in the tax legislation of Kosovo as one of the major rights a taxpayer enjoys⁴⁸. In respect of this right, TAK has an obligation to keep its taxpayers' records with confidence and reliability. The right to confidentiality and secrecy is a complement to the right to privacy. This right means that the information that tax authorities possess about a person is to remain confidential and shall only be used for the purposes stated in the law. The right to confidentiality and secrecy is very important for taxpayers because the misuse of information can be very dangerous and lead to legal implications.⁴⁹ The protection of this right also instills trust between taxpayers and tax authorities which is very important for increasing voluntary compliance, which is one of TAK's missions.

The right to appeal

According to former Australian Taxation Commissioner, Michael Carmody, the taxpaying community has the right to expect good treatment to believe that the tax authority is there to protect their rights, and in order to gain public confidence in tax administration, it is not sufficient that the taxpayers know how the tax authority is operating, but also to know that there are ways and procedures through which they can complain if they believe that the authority is not acting according to its promised standards.⁵⁰

If the taxpayer believes that they have been treated unfairly or an error has occurred during the assessment, the taxpayer has the right to appeal. Additionally, the taxpayer has the right to

⁴⁷ Taxpayers' Charter, TAK, 2009, pg 9

⁴⁸ Tax Legislation of Kosovo, 2011, pg. 14

⁴⁹ Kasimbazi, 2004, pg 39

⁵⁰ Bentley, D. (2007). Taxpayers' Rights: Theory, Origin and Implementation, pg 118

seek help if they need further clarification of their rights and the procedure of review⁵¹. In case of an objection, TAK is then required to review the case and deliver a final answer as quickly as possible. Apart from the decision of the review, taxpayers have the right to receive an explanation with the reasons for which their objection was fully or partially disallowed. Based on the tax legislation of Kosovo, “there are available and comprehensive procedures for unhappiness and complaints for all taxpayers”⁵².

Within TAK there is a separate division which is responsible for dealing with appeals made by taxpayers who have disputed the General Director’s assessment or decision. In cases where taxpayers do not agree with an official determination of TAK, they have the right to appeal to the Appeals Division⁵³. This appeal can be filed up to 30 days after the taxpayer has received a notification for the official determination. The appeal should be a written document containing a clear statement of the reasons and facts upon which the taxpayer disputes the TAK assessment and makes the appeal. Further on, the taxpayer has a right to an extension of the 30-day deadline if reasonable circumstances are demonstrated that prevent the taxpayer from filing the appeal within the 30-day deadline, such circumstances must be proved that are outside of the taxpayer’s control⁵⁴.

After receiving the appeal, the Appeals Division considers it and based on all the available information reaches a decision. The Appeals Division decision must be sent in a written form to the taxpayer filing the appeal, notifying the taxpayer regarding the decision and the reasons upon which it is made. The Appeals Division decision must be made and delivered to the taxpayer no later than 60 days from the day the appeal was filed⁵⁵. While the 60 day period of assessing the appeal by the AD has not passed, the taxpayer also has the right to request a withdrawal of the appeal, after which request TAK terminates the ongoing administrative proceedings of the appeal.⁵⁶

The decision of the Appeals Division, once made, is the final decision of the General Director. However, if the taxpayer is still not pleased with the results and does not wish to accept

⁵¹ Taxpayers’ Charter, TAK, 2009, pg 10

⁵² Tax Legislation of Kosovo, 2011, pg. 14

⁵³ Tax Legislation of Kosovo, 2011, pg. 243

⁵⁵ Tax Legislation of Kosovo, 2011, pg. 243

⁵⁶ Tax Legislation of Kosovo, 2011, pg. 250

the Appeals Division decision, he/she may further appeal. The following appeal is made directly to a court of competent jurisdiction. Previously, the following step after appealing to the AD was to appeal to the Independent Review Board (IRB); however, now the IRB only deals with old cases which have not yet been resolved while new appeals are directly forwarded to the court.

The right to be represented by a representative

During any proceeding, taxpayers have the right to be represented by another person as their tax representative. However, even if the taxpayer engages a representative, he or she will still have the right to participate on their own in any proceedings as well as TAK still has the right to access the taxpayer on their own and request any information personally from them.⁵⁷

The right to claim a refund

Based on the tax legislation of Kosovo, taxpayers have the right to claim a refund in case they have a credit in their account by the end of the tax period. The claim for the refund must be actioned within 60 days of the filing of the request. If the refund is not applied within these 60 days, taxpayers have the right to receive the interest earned on the amount to be refunded for as long as the refund is delayed⁵⁸.

Any amount of tax paid in excess of the amount which is due for the tax period results in a credit balance in the taxpayer's account. TAK may apply the excess amount to the following tax period; however, in doing so, conform to the taxpayers' right to be informed, TAK must also send a written notice to the taxpayer to inform them about the credit amount applied⁵⁹. If after TAK applies the excess to the current period and there is still an amount overpaid while the taxpayer has no other outstanding debts, the taxpayer then has the right to claim refund for the excess amount paid. The taxpayer has the right to file a claim for refund for a period of six years from the date when the tax was paid, whereas TAK has to action the refund claim within sixty days from the day it receives the claim. If the refund is not accepted by the taxpayer within the sixty days and there is no notification of a rejection or withhold by TAK, the taxpayer has the right to receive interest on top of the amount to be refunded⁶⁰. If TAK, based on the tax

⁵⁷ Tax Legislation of Kosovo, 2011, pg. 257

⁵⁸ Taxpayers' Charter, TAK, 2009, pg 12

⁵⁹ Tax Legislation of Kosovo, 2011, pg. 138

⁶⁰ Tax Legislation of Kosovo, 2011, pg. 139

legislation of Kosovo, determines that the taxpayer is not eligible to receive the refund or it should be withheld for a certain time, then interest will not accrue to the taxpayer.

The right to a refund further enhances the right of taxpayers to pay only the amount they are liable for and no more; however, this right also depends on the taxpayers' education regarding the tax legislation and whether or not they are able to assess that they have paid in excess.⁶¹ In cases where taxpayers are not able to assess their tax liabilities on their own and determine that they have a right to refund, the enforcement of such a right becomes a problem. When taxpayers end up not receiving a refund to which they have a right, their fundamental right to pay no more than the correct amount is violated.

The right to deduct VAT

Under the tax legislation of Kosovo, taxpayers have the right of reduction from their gross income the expenses incurred during the tax period which are directly related to the person's economic activity⁶². In a similar manner VAT is also deductible, for the activities related to the economic activity of the person, if they fall under the allowable expenses category. Under the allowable expenses category fall the following:

- Damaged, destroyed or lost goods due to casualty or theft, where casualty involves destruction or damage due to accidental or natural causes, such as: earthquakes, floods, wind, vehicle accident, or similar accidents which can be documented and verified through the relevant institution⁶³. Following the tax legislation of Kosovo, taxpayers are allowed to deduct such losses in damaged or destroyed goods due to theft or casualty if they provide the necessary documentation and proof to TAK.
- Goods sold at a discount. Since discounted sales usually present a loss to the business because at a discount price they are sold for less than their cost. Such costs are also allowed to be deducted from the taxpayer's gross income, given that the taxpayer is able to document the reasons for such a discounted sale⁶⁴. However, the loss which is deductible is only

⁶¹ Kasimbazi, 2004, pg 37

⁶² Tax Legislation of Kosovo, 2011, pg. 98

⁶³ Tax Legislation of Kosovo, 2011, pg. 116

⁶⁴ Tax Legislation of Kosovo, 2011, pg. 118

limited to the difference between the price at which the inventory is sold and its purchase price.

Interest and penalties

According to Article 28 of Law No.03/L-222, if any amount of tax or penalty remains unpaid by the final date prescribed for the payment, TAK will charge interest on the amount unpaid. However, conform to the right to be informed, TAK has the obligation to inform the taxpayer for the penalty or amount remaining unpaid and give a notice that interest will start to accrue if the unpaid amount is not paid after 120 days of notice⁶⁵. Interest may not begin to accumulate unless the taxpayer is notified and the 120 days of notice have passed. In such circumstances, taxpayers have the right to request an agreement with TAK to repay the debt in installments⁶⁶. With such an agreement, the taxpayer is relieved of interest accruing on the existing debt until all installments are paid; however, if the taxpayer wishes to enter an agreement to pay in installments for a period greater than 12 months, then interest will accrue on the debt.

Based on Article 62 of the Law, taxpayers have the right to request a relief from a penalty if they believe that reasonable grounds exist to do so. In general, there are four categories of reasons for which taxpayers may be relieved from a penalty, they are⁶⁷:

1. *Reasonable cause, including a good faith effort to comply with the law*
2. *Statutory exceptions*
3. *Administrative waivers, such as undue hardship or other grounds that will enhance the effectiveness of TAK*
4. *Correction of TAK error*

In order to be eligible for a relief from a penalty, the taxpayer must submit a written request to the General Director, explaining the penalty and the basis upon which the relief is requested, as well as include support for the relief. Based on the arguments and facts provided, the commission should make a decision either to grant or to deny the relief from the penalty. In case TAK assesses that the relief should not be granted, the taxpayer must be notified through a written explanation of TAK's reasons for rejecting the relief.

⁶⁵ Tax Legislation of Kosovo, 2011, pg. 132

⁶⁶ Tax Legislation of Kosovo, 2011, pg. 133

⁶⁷ Tax Legislation of Kosovo, 2011, pg. 201

Methodology

Due to the nature of the problem, the study followed a qualitative research approach in an attempt to identify and explain the current issues in Kosovo's tax system regarding taxpayers' rights and their enforcement. Since the topic of taxpayers' rights in Kosovo is given little attention and there is lack of publications discussing this issue, the majority of data was collected from primary sources through interviews and surveys; however, in order to gain the necessary background information to be able to analyze the issue, secondary sources were consulted, too.

Secondary Sources

Initially, publications of international organizations and well-known scholars were reviewed in order to understand the overall significance of taxpayers' rights and their importance in building an effective tax system. In particular, several publications of Duncan Bentley were analyzed, such as "The significance of declarations of taxpayers' rights and global standards for the delivery of tax services by revenue authorities" (2002), and "Taxpayers' Rights: Theory, Origin and Implementation" (2007). Bentley, through his research and work, has contributed significantly in the area of taxpayers' rights, best practice and benchmarking in tax administration, especially in Australia, in the development of its Taxpayers' Charter⁶⁸. Bentley's work, combined with IMF and OECD publications on best practice were used to highlight the importance of focusing on the field of taxpayers' rights to build a good taxation system and how to do so.

Further on, in order to understand taxpayers' rights and the tax system in Kosovo in general, all publications available on the TAK website were analyzed. Among the most important of these publications were: The Tax Legislation of Kosovo, The Taxpayers' Charter, The Taxpayers' Rights and Obligations, Handbook on Taxes in Kosovo, Annual Reports and other relevant material. These documents provided the necessary information to understand the tax system in Kosovo, the tax laws and procedures, including taxpayers' rights and obligations. Apart from providing the necessary background information, these documents also served as the basis for analyzing the current situation of taxpayers' rights in Kosovo. By analyzing these

⁶⁸ http://www.thesait.org.za/?page=Duncan_Bentley

documents, issues within the tax legislation itself as well as other TAK publications were identified, such as the complexity of the law, the lack of direct explanations regarding taxpayers' rights, the lack of updates and outdated documents etc.

Primary sources

Primary data was collected in order to gain a better understanding of the issue from the viewpoint of the different stakeholders. Due to different interests and positions, stakeholders were divided into different groups in order to be able to address more closely the issue of taxpayers' rights. The different groups interviewed were: experts in the field (economists), TAK officials, business taxpayers, and individual taxpayers. The distinction between business taxpayers and individual taxpayers was made on purpose since the research itself showed that there are major differences between the two regarding tax services and procedures. In total, 11 interviews were conducted and 167 questionnaires were sent out for the two surveys.

Interviews

The persons interviewed are:

Mr. Blerand Kadrijaj from the Ministry of Finance of Kosovo. The purpose of this interview was to understand from Mr. Kadrijaj's point of view on how important taxpayers' rights are for an effective tax system, what constitutes a good tax system and how TAK is currently assessed in serving taxpayers according to their right to be served (see appendix for complete questionnaire for this interview). Further on, since TAK staff has direct contact with taxpayers and is responsible for treating taxpayers according to their rights, two TAK officials were interviewed: Ms. Adriana Nixha and Mr. Sami Salihu (Manager of Taxpayer Education Division). The purpose of the interviews with TAK staff was to understand how they view the issue since they directly deal with the taxpayers and whether they believe that there is a problem with the understanding and respect of taxpayers' rights (see appendix for complete questionnaire for these interviews).

Mr. Haki Latifaj, as a previous tax inspector and Head of Audit Department at TAK. The interview with Mr. Latifaj was unstructured since it was mainly conducted to gain insight from his previous experience as a tax inspector and in dealing with taxes.

Lastly, taxpayers, as the most important stakeholders in this issue were interviewed. Taxpayers were purposefully left as the largest group to be interviewed since they constitute the largest group of shareholders. As it was already noted, taxpayers had to be distinguished as business taxpayers and individual taxpayers. From businesses, representatives of several businesses in Kosovo were interviewed, among which: Ms. Mimoza Beqiri from the Finance and Accounting Department of Meridian Corporation, Mr. Besjan Zejnaj from Nugabest, and Mr. Bujar Hoxha from Viva Fresh Store. The purpose of these interviews was to gain insights from the businesses experiences with TAK, their understanding of the legislation, their rights and obligations and whether they have ever been subject to a violation of their rights as taxpayers. While it is evident that such a small number of businesses can not be representative of the business community in Kosovo and their experiences with the tax administration authority, these interviews were conducted to be able to understand more in depth some of the difficulties that businesses face and the issues they encounter (see appendix for complete questionnaire for these interviews).

From the group of individual taxpayers, the interviewees were: Mr. Edon Muhaxheri, Mr. Xhavit Loshaj and an individual taxpayer whom wished to remain anonymous due to an ongoing review process with TAK. Although individual taxpayers have much less direct contact with the tax authorities (as was also stated during the interviews), individual taxpayers were also interviewed because although they pay a lower amount of taxes in nominal terms, they constitute a large portion of taxpayers in Kosovo. The purpose of such interviews was to understand how familiar taxpayers are with the tax system, their rights and obligations and whether they have had any cases where their rights were violated. While individual taxpayers were the most difficult group to interview since the majority of them were not well aware of their rights and obligations, this fact only highlighted an important issue regarding their rights (see appendix for complete questionnaire for these interviews).

Surveys

While several interviews with businesses and individuals made it possible to analyze the issue more in depth from the personal experiences of the taxpayers, it did not suffice to gain a general overview of the situation from the taxpayers' perspective. Thus, two small-scale surveys were conducted, one with a group of businesses, the other with a group of individuals. The

surveys were conducted to support the qualitative research with some quantitative data, to be able to show from a smaller group of taxpayers to what extent they are aware of their rights and whether they are respected.

The sampling method for both samples is by convenience. Due to limited time and resources, a representative sample could not be obtained; therefore, the convenience sample can not be representative of the whole taxpayer community, but it can to some extent highlight some important issues they face regarding their rights since the sample sizes were 30 and above. Due to the differences between businesses and individuals regarding taxation, different questionnaires were formulated for the two groups (see appendix for the complete questionnaires for these surveys). The majority of the questions for the surveys were close-ended (mostly with a Yes/No answer); however, there was also room for additional comments and participants were encouraged to provide additional feedback, anything they wished to share from their own experience. The response rate for the two groups was different; while individual taxpayers were much easier to reach and responded regularly, some difficulty was experienced in surveying businesses due to a lack of willingness to participate and respond. In total 137 questionnaires were sent out to businesses while only 31 were returned with responses; while for individual taxpayers there was a 100% response rate with 30 questionnaires being sent out and received in return.

Limitations to the methodology

In addition to the lack of possibility to have a representative sample for the surveys, other limitations to the methodology involve:

- Lack of publications regarding taxpayers' rights in Kosovo. The topic lacks attention among the research community and there was no publication found assessing the current situation of taxpayers' rights in Kosovo which could have been used to support and enrich this research.

- Lack of willingness to respond by participants. Since taxes are a sensitive topic for taxpayers, much difficulty was encountered due to the lack of willingness of the interviewees and survey participants to respond to questions regarding their experience with tax matters.

Findings and Analysis of Results

Importance of taxpayers' rights for Kosovo's tax system

There seems to be a general agreement among the interviewees that taxpayers rights in Kosovo are crucial for an efficient and effective tax system. Thus,

TAK states that its missions are:

- to increase to the maximum the voluntary fulfillment of obligations by the taxpayers, by fully concentrating on the tax legislation and statute
- to provide professional, transparent and effective services for the taxpayers community, in order for them to understand their tax paying obligations, and
- to ensure an equal and just implementation, as well as a strengthening of tax laws in order to accumulate budget revenues in a more efficient manner and at lower costs⁶⁹

However, its missions will not be effectively reached without a careful consideration of taxpayers' rights as a crucial factor in the tax system, since the TAK General Director, Mr. Behxhet Haliti, also acknowledges that for its tax system to work efficiently, TAK must make voluntary compliance as easy as possible and operate in such a way as to gain the public confidence in TAK's ability to manage the system fairly and correctly.⁷⁰ Taxpayers' rights are an important aspect of the tax system to focus on "because they impact voluntary compliance; hence, they make the payment of taxes less costing for the taxpayers and give the sustainability to government budget."⁷¹ Further on, TAK officials also agree that focusing on taxpayers' rights and educating them regarding the tax system in general is very important and can be beneficial for the country as a whole since when taxpayers are educated and aware of their rights and obligations, they understand the importance of taxes and comply more.⁷²

⁶⁹ Buletini Informativ, ATK, 2013

⁷⁰ TAK, Compliance Strategy 2012-2015, pg 6

⁷¹ Personal Interview, B. Kadrijaj

⁷² Personal interview, A. Nixha

TAK has formally stated its commitment to protecting taxpayers' rights in several of its published documents. While TAK's 2010-2015 Strategic Plan includes in total 9 strategies to improve its service and increase voluntary compliance, the first among them is listed:

*Respect for taxpayers' rights and obligations and TAK rights and obligations, as specified in the Taxpayer Charter.*⁷³

Further on, in order to ensure that taxpayer rights are clearly stated and easily accessible for taxpayers, TAK has also published the Taxpayers' Charter. The taxpayers' charter is compiled with the purpose to summarize and explain in a simpler manner taxpayer rights and obligations, attempting to make it more easily understandable as compared to the law.⁷⁴ The taxpayers' charter is a guiding document; it is not a legal document in itself. It does not provide any additional rights or rules, only those included in the legislation itself. While the Taxpayers' Charter only briefly describes the taxpayers' rights, they can be found in detail under the Tax Legislation in Kosovo.

How informed are Kosovar taxpayers about their rights?

The right to be served

Being one of the fundamental rights of taxpayers, almost all taxpayers report that they are aware of their right to be served by TAK (based on the results of the survey and interviews), and also that they are generally satisfied with the service they receive in the regional TAK offices around Kosovo. Businesses claim that there has been significant improvement in the service from TAK during the past few years; however, it must be noted that there is a difference between taxpayers, such as the corporations and larger businesses, and smaller individual taxpayers, not only in the procedures, but also in the quality of service they receive.⁷⁵

The right to be informed, assisted, and heard

Conform to this right taxpayers may request assistance and additional information from TAK when necessary. TAK has made available all communication manners for taxpayer to approach

⁷³ TAK, Compliance Strategy 2012-2015, pg 13

⁷⁴ OECD, Taxpayers' Rights and Obligations – Practice Note, pg 6

⁷⁵ Personal interview, M. Beqiri

TAK.⁷⁶ Taxpayers, apart from visiting their regional TAK offices, may also inquire through e-mail and telephone, as well as there is considerable amount of information available on the TAK website. The majority of taxpayers interviewed and surveyed respond that they are aware of their right to be informed and request assistance as well as they take advantage of it. Several businesses have reported that they have requested additional information and assistance through e-mails and were impressed by the quick response. Officials from the Taxpayer Service Division also claim that they receive frequent requests from taxpayers for additional information and explanations, some of these requests also include information on taxpayers' rights.⁷⁷

Moreover, the Director of the Taxpayer Service Division also claims that their office frequently receives e-mails for more information from taxpayers, mostly to request assistance in interpreting the laws on different taxes. Businesses further on report that they request assistance, mostly in interpreting the law. Such results show that the taxpayers' right to be informed and assisted is respected by the tax authority and they receive good assistance when requested; however, the mere fact that they frequently request assistance in interpreting the law shows that they have difficulty in understanding the current tax legislation in Kosovo, which is the main factor resulting in a lack of knowledge among taxpayers regarding their rights.

In addition to taxpayers requesting information and assistance themselves, TAK also holds trainings and seminars with the purpose of educating taxpayers regarding tax matters. According to the Taxpayer Service Division, TAK is encompassed with a database of business contact information, through which they notify taxpayers about upcoming seminars and invite them. Also, notifications regarding the seminars are regularly updated on the TAK website; therefore, there is sufficient information provided by TAK to the taxpayers regarding compliance to tax obligations. However, there are concerns among the taxpaying community regarding these seminars and the approach of informing them.

Based on the results of the interviews and surveys, only a small fraction of taxpayers attend such seminars, and even when they are held, they are mainly done so prior to the declaration periods and the content of the presentations is the process of declaration of tax obligations. While one of the interviewees states that these seminars focus more on the side of taxpayer obligations,

⁷⁶ Personal interview. B. Kadrijaj

⁷⁷ Personal interview. A. Nixha

they would appreciate more information regarding their rights as taxpayers because there is a major difference between “being told about your obligations and how to pay them, and the rights you have as a taxpayer.”⁷⁸ The impression of businesses that such seminars are mainly held prior to the declaration period and focus on the fulfillment of obligations was further proven by the fact that TAK held its latest seminar in early March, 2014, where the main topics covered were:

- Annual Declaration and Payment Form for PIT
- Annual Declaration and Payment Form for CIT
- Annual Declaration Form for Partnerships
- Procedure for reporting purchases above 500 €
- Withholding tax
- Procedures for VAT refunding.⁷⁹

Although at the end of the seminar handouts such as the Handbook with questions and answers as well as “The rights and obligations of a taxpayer” were distributed, the focus was on “supporting taxpayers in understanding and fulfilling their obligations,”⁸⁰ with a lack of attention on taxpayers’ rights.

The right to certainty and the right to facilitation of compliance

Under the right to certainty and facilitation of compliance, taxpayers’ rights and obligations must be clearly stated by the law and the tax administration must be capable of providing all the necessary assistance to taxpayers in complying with their obligations. However, based on the responses from the interviews and surveys, the majority of taxpayers believe that the tax legislation of Kosovo is not very adequate; it is ambiguous and leaves room for multiple interpretations. Such responses from the taxpayers are also supported by TAK officials who claim that in most cases, the requests from taxpayers are for an interpretation of the law. Due to this ambiguity within the legislation itself, a taxpayer interviewed states that it is difficult for them to even know whether they are fully complying with the law and provides them with a sense of insecurity. Since the tax legislation of Kosovo encompasses both taxpayers’ rights and

⁷⁸ Personal interview. M. Beqiri

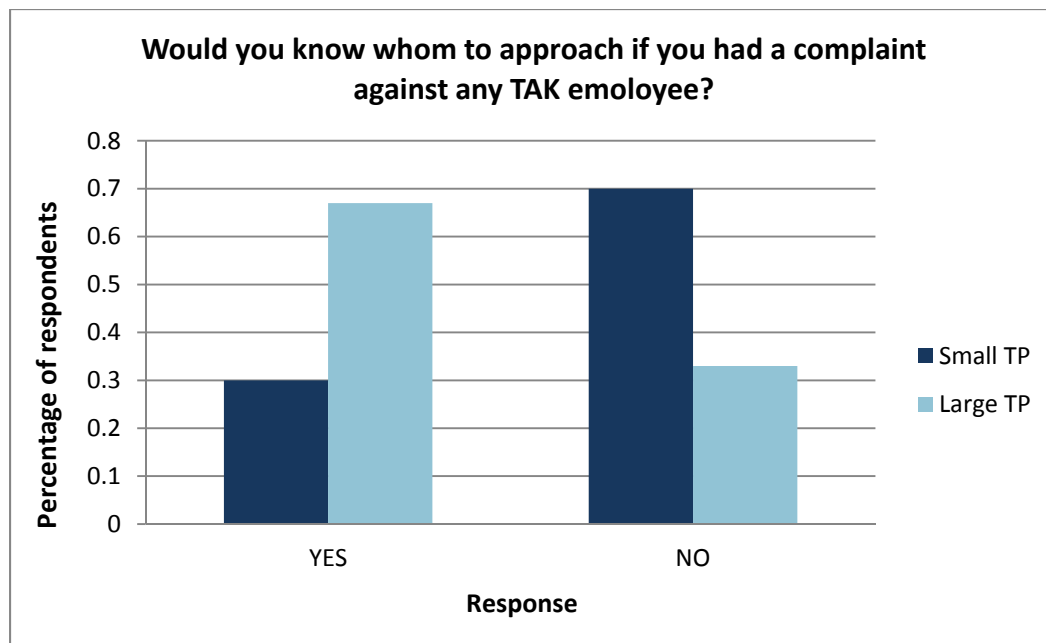
⁷⁹ TAK has realized seminars with taxpayers (March 10, 2014). Retrieved from: <http://www.atk-ks.org/2014/03/atk-realizoi-seminaret-me-tatimpagues/?lang=en>

⁸⁰ TAK has realized seminars with taxpayers (March 10, 2014). Retrieved from: <http://www.atk-ks.org/2014/03/atk-realizoi-seminaret-me-tatimpagues/?lang=en>

obligations, it can be inferred that taxpayers' rights are also ambiguous and not clearly stated by the law, as the right to certainty requires them to be so.

The right to appeal

As it was also stated by one of the interviewed businesses, a distinction must be made between large taxpayers such as corporations and smaller taxpayers such as small private businesses. While the interviewed business claimed that there is a difference in the services received by these two groups, the survey results show that there is also a difference in the level of tax education among these two groups. The table below shows the responses of the two different groups when asked whether they would know whom to approach if they had any complaint against TAK:



From the results it can be seen that the majority of individual taxpayers are not sure whom they should approach for a complaint while for the large taxpayers it is the opposite, the majority of them do know whom to approach and the procedures of appeal. The lack of knowledge regarding their right to appeal and the procedure of appeal is more problematic for individual taxpayers because not all of them are economists and do not have the necessary background to deal with issues in relation to taxation.⁸¹ As one of the interviewees claims, for smaller taxpayers

⁸¹Personal interview. M. Beqiri

it is even more costly in relative terms to complain and fight for their rights, because they are not familiar with the process. They hire an accountant or lawyer, but when they have a dispute, they get advised to not take the case any further because “it is not worth it.”⁸² Such small taxpayers can not afford the costs of appealing, defending themselves and going to courts. For this, it is important to educate taxpayers because with their education, the whole tax system will benefit. If individual taxpayers are educated and know the procedures they will also be able to defend themselves.⁸³

On the other hand, the results of the survey which show that the majority of the business taxpayers are aware of their right to appeal and know whom to approach are also supported by the results of the interviews conducted with large businesses. The large businesses interviewed all confirmed that they know the procedures of appeal, but they claimed that they do not prefer to do so. Among the reasons for this is the procedure of appeal itself, which according to the businesses is too long, costly and exhaustive, that simply makes it not worth appealing.⁸⁴ According to the law on tax administration and procedures, if taxpayers believe they have a reason to do so, they may initially appeal to the Appeals Division within TAK, by submitting a formal document containing:

- *the name, address and fiscal number of the taxpayer;*
- *a description of the matter being appealed (assessment notice including date of notice, date notice received, type of tax, tax periods, and amount of tax for which the appeal is being submitted);*
- *the determination or part of determination that is being appealed;*
- *the legal basis for the appeal;*
- *a description of the reasons why the official notice of assessment or determination is considered to be incorrect or inappropriate, including references to legal basis for determination that the determination is incorrect or inappropriate; and*
- *the signature of the taxpayer, the designated official of the taxpayer, or the taxpayer’s authorized representative.*⁸⁵

Further on, in case taxpayers are not satisfied with the decision of the AD or have not received a response within 60 days of filing the appeal, they may further appeal to the court.

⁸² Personal interview. M. Beqiri

⁸³ Personal interview. M. Beqiri

⁸⁴ Personal interview. B. Hoxha

⁸⁵ Tax legislation of Kosovo, pg. 246

Previously, when taxpayers after losing the case with the AD further appealed to the IRB, the appeal process was reported to be long and exhaustive since during the appeal proceedings, taxpayers had the burden of proof upon, they were obliged to pay the liabilities during the process as well as any costs incurred to defend themselves. Overall, if taxpayers had a more difficult case which went all the way to the court, the costs were higher and the process more tedious since the minimum amount of time they would wait to proceed the appeal to the IRB was 60 days, and a further 90 days to take it to the court, resulting in a total of 150 days, over 5 months, just for the case to go the court. Although the Independent Review Board does not deal with new cases and they are directly forwarded to courts, there are still old cases which are ongoing for taxpayers.

For taxpayers with ongoing proceedings with the AD or IRB, the procedure may involve additional costs due to required reviews either from the TAK or the IRB, which according to a business interviewee can be very costly because they can be required to present so many unnecessary documents only to make the process more painful.⁸⁶ As a businesses representative states, “inspectors come and request all the documents they can, even such documents which they have already collected previously, and we have to obey and provide them with such documents, although it costs us both in time and material.”⁸⁷ However, as stated in the Taxpayers’ Charter, it is one of the taxpayers’ rights and TAK’s promises to keep compliance costs for the taxpayer to the minimum.⁸⁸ Moreover, in respect of the right to privacy of taxpayers, the Taxpayers’ Charter states that TAK will only seek access to information relevant to their inquiries.⁸⁹ While such documents requested may be relevant to the inquiry, the business states that since they have a unique and single fiscal number, all the documents previously presented to TAK should be kept in their file and there would be no need to request them each time because as it is unnecessary, it imposes additional costs on the business.

Based on the responses from the business and the statements in the Taxpayer’ Charter, in such a case, not only is their right to privacy as well as to keep costs at costs at a minimum violated, but their right to appeal is further on damaged through an unnecessary over-

⁸⁶ Personal interview. B. Hoxha

⁸⁷ Personal interview. B. Hoxha

⁸⁸ Taxpayers’ Charter. (2009). Tax Administration of Kosovo. Pg. 7

⁸⁹ Taxpayers’ Charter. (2009). Tax Administration of Kosovo. Pg. 9

complication of the process, leading to a hesitation of business to appeal even in cases when they have a reason to do so. Moreover, businesses reported hesitation to appeal due to a perception of “revenge” from the inspectors after appealing, where they claimed that due to the inconsistencies and gaps in the tax legislation, there are multiple interpretations to the laws which give the inspectors the opportunity to impose sanctions if they strongly wish to do so. As a result of this, the business reports that “we do not appeal because in the end it is not worth it, it is more costly to do so.”⁹⁰

Problems Associated With the Enforcement of Taxpayers’ Rights

According to Kasimbazi (2004), there are three main problems with enforcing taxpayer rights: lack of professional experts, lack of education and ignorance of tax rights, and inefficient investigation procedures. Each of these problems has been analyzed for the case of Kosovo and based on the interviews and surveys conducted, the following results show whether such problems were identified in Kosovo:

1 – Lack of professional experts

When there is a lack of experts regarding tax matters, taxpayers have few opportunities to consult someone regarding their rights and obligations. As a result, taxpayers are not even aware when their rights are violated because they do not get sufficient explanation for them⁹¹. However, according to all interviewees from the Ministry of Finance, the Taxpayer Service Division and other TAK employees, TAK is equipped with professional employees whom are capable of assisting taxpayers in their requests and explaining to them the tax procedures. Businesses also reported satisfaction with the service they receive once they seek professional assistance and explanation, although such instances include issues in interpreting the law and not specifically regarding the rights of taxpayers.

2 – Lack of education and ignorance of tax rights

In addition to the lack of professional experts, the lack of tax education among taxpayers further on makes the enforcement of taxpayers’ rights and obligations more difficult in a country,

⁹⁰ Personal interview. B. Hoxha

⁹¹ Kasimbazi, 2004, pg 49

because not only are the taxpayers not aware of their rights and how to enforce them, but they also do not appreciate taxes and the importance of them.⁹² As a result, there is both a higher level of violation of taxpayers' rights but also a lower level of taxpayer compliance.

According to one of the business interviewees, taxpayers do not fully know their rights, especially smaller taxpayers such as small businesses and individual taxpayers. A factor contributing to this lack of education, according to businesses, is the tax legislation itself, which is inconsistent and has many “gaps” which leave room for multiple interpretations and confuse the taxpayers. The following table presents several questions which were posed during the surveys with taxpayers and their responses. Such questions were mainly asked to gain an insight on the level of education of taxpayers regarding their rights and obligations. The distinction between smaller taxpayers (TP) and larger taxpayers (LT) was purposefully made to highlight the difference in awareness among the two groups since the level of awareness regarding tax matters is lower among the smaller taxpayer community:

Question	Responses					
	Yes			No		
	<i>Small TP</i>	<i>Large TP</i>	<i>Overall</i>	<i>Small TP</i>	<i>Large TP</i>	<i>Overall</i>
Are you aware of your basic rights as a taxpayer?	40%	87%	63%	60%	13%	37%
Do you know the different types of taxes and tax rates in Kosovo?	57%	90%	73%	43%	10%	27%
Have you ever read the tax legislation of Kosovo?	27%	90%	58%	73%	10%	42%
Did you find difficulty in understanding it?	38%	41%	40%	63%	59%	60%
Are you aware of the procedure for reimbursement?	N/A	65%	65%	N/A	35%	35%
Are you aware within how many days TAK is obliged to inform you regarding a complaint?	N/A	57%	57%	N/A	43%	43%

⁹² Kasimbazi, 2004, pg 49

From the above table, it can be noted that:

- There is a significant difference between the awareness of their rights as taxpayers between small taxpayers and large taxpayers, with small taxpayers being significantly less informed regarding their rights
- A considerable portion of taxpayers (27%) are not even familiar with the different taxes and tax rates in Kosovo, the basics of the tax legislation, the portion of which is even higher among small taxpayers (43%)
- Almost half of the taxpayers surveyed have never read anything from the tax legislation (42% of respondents claim they have never read it), and from those that have read, 40% claim they had difficulty in understanding the laws or that they encountered inconsistencies/ambiguities
- Almost half of the taxpayers surveyed are not aware of their right to be informed within the time limit specified by the law (43%), while a greater portion of them (65%) are aware of their right for reimbursement and the procedure for it.

The results from the surveys, accompanied by the claims of interviewees, show that there is a need for improvement of tax education among taxpayers. This claim is also supported by TAK officials, who state that taxpayers could be better educated with trainings and advertisement, since they frequently receive requests from taxpayers regarding an interpretation of the law.

3 – Inefficient Investigation Procedures

When the procedure of following up the complaints of taxpayers is slow and inefficient, there is a drag in handling tax cases, which can be a problem in the enforcement and protection of taxpayers' rights since one of their major rights is the right to appeal.⁹³ The slow and inefficient process of handling appeals has been one of the major issues reported by taxpayers involved in the research. As it was also stated previously, in relation to their right to appeal, taxpayers interviewed have claimed that they hesitate to appeal since they expect an intense review

⁹³ Kasimbazi, 2004

procedure to follow it, whereby they will have to provide too much documentation and it will result in more costs for them.⁹⁴

An inefficient and exhaustive procedure has also been reported to be reimbursement. Several taxpayers surveyed have commented on the reimbursement procedure where they have stated that “the procedures are too long and exhausting” as well as that they have been advised to not claim a reimbursement because “the procedure is long-lasting and not worth it.”⁹⁵ Ms. Beqiri, one of the large taxpayer interviewees, claims that their company does not claim reimbursement; rather, they leave the amount as a credit balance for the next tax period because “the procedure for reimbursement is very bureaucratic, if you request a refund, you have to deal with inspectors and documents and it is more simple if you just leave the amount there for the next period.”⁹⁶

Taxpayers’ Rights and Tax Evasion

The tax authorities of Kosovo already face a difficult issue with the high share of taxes which are evaded, but it is precisely this issue which makes the violation of taxpayers’ rights even more problematic because it further on discourages paying taxes and abiding by the law. According to research conducted by Riinvest Institute, businesses believe that only around 2/3 of sales are reported by businesses, meaning that around 30% of the taxes are evaded⁹⁷. While the majority of research and discussion regarding taxation in Kosovo is focused on this issue of tax evasion, little to no attention is given to taxpayers’ rights and their violation. However, there is a perception among several businesses, as was discovered during the interviews, that the tax authorities utilize those companies which pay their liabilities to compensate for the large amount of taxes which is evaded.

Among the taxpayer community, there are two types of taxpayers: those that fulfill their obligations towards the tax authorities and those that evade paying taxes; however, the tax authorities have direct contact only with those that pay their taxes because those that evade paying have already discovered a way to avoid this link completely or at least to an extent. Since the authorities with current resources are unable to track down such taxpayers that evade taxes,

⁹⁴ Personal interview. B. Hoxha

⁹⁵ Survey conducted with business taxpayers

⁹⁶ Personal interview. M. Beqiri

⁹⁷ Riinvest Institute (2013). To Pay or Not to Pay: A Business Perspective of Informality in Kosovo. Pg. 8

they have the possibility to “attack” the companies which already are paying and overcharge them with taxes.

Such an approach is not only the wrong approach of authorities to increase revenues, but it is also in violation of their basic rights as taxpayers: the right to fair and equal treatment, and the right to pay no more than the correct amount. As a result, these businesses which are overcharged with taxes are further put to a disadvantage compared to other businesses which evade taxes altogether. In such situations, businesses are dis-incentivized to further comply with the law due to the unfair competition. This “unfair competition” has been considered to be the number one barrier that businesses report in doing business⁹⁸. Moreover, this situation leads to higher compliance costs for taxpayers, which not only contradicts TAK’s commitment to keep “costs in complying with the law to a minimum”⁹⁹ as stated in the Taxpayers’ Charter under the “Right to be informed, assisted and heard,” but it also incentivizes evasion because with higher compliance costs, evasion becomes “cheaper.”¹⁰⁰

Most Frequent Complaints to the Independent Review Board

Several of the most frequent appeals to the IRB are for the following reasons¹⁰¹:

1. Over-charging of VAT or Corporate income tax by the tax inspectors based on the open market value:
 - Hotel sector: tax inspectors have based their evaluations upon observations of restaurants or coffee shops for an hour during the day (rush hour) and then have charged the businesses on a monthly basis upon such evaluations, without concrete facts such as coupons.
 - Trade sector: during observations, tax inspectors use a single price to account for all different brands of the same product, although they may have different quality and consequently different prices. For example: a company selling 10 different washing machines of different qualities, brands and prices, is charged a higher tax due to

⁹⁸ Abdixhiku, L. (2013, September 9). Çfarë i mundon bizneset? *Koha Ditore*

⁹⁹ Taxpayers’ Charter. (2009). Tax Administration of Kosovo. Pg 7

¹⁰⁰ Abdixhiku, L. (2013, October 18). Një konkluzion për një plan-hajgare. *Koha Ditore*

¹⁰¹ The following reasons have all been provided during an interview with a previous tax inspector and TAK employee, currently a certified accountant

- assumed higher turnover by accounting the 10 different washing machines for the price of the single most expensive one.
- Construction sector: over-charges for construction activities occur mostly due to the lack of knowledge in calculating the construction costs (metal, concrete, and labor costs, the costs for outside paint and others), as well as the fact that tax legislation for construction activities is lacking.
2. The over charge of tax (corporate income tax) by tax inspectors as a result of not accepting the depreciation method for those assets which have been appraised by a certified appraiser
 - When the cost of acquisition is very low, in harmony with IFRS and the law, it is to be equalized with the open market value of the asset; while in Kosovo, too few businesses do such an appraisal by certified appraisers. During the assessment of a company's real estate and wealth for tax purposes, only the cost of acquisition is accepted and not that based on the market value, which is why some businesses appeal to have this assessment done based on the market value so that they can have a higher depreciation base for tax purposes.
 3. Non-application of inter-state agreements for avoiding double taxation and the damage done to Kosovo businesses
 - Frequent complaints have been filed by businesses which have been damaged as a result of ignoring inter-state agreements to avoid double taxation, where the Kosovar businesses have paid their tax liabilities to the other country where they also do business as well as they have additionally been charged by TAK.

All of the cases elaborated above involve a violation of a fundamental right of taxpayers: The right to pay no more than the correct amount, which is clearly stated as the second right in the Taxpayers' Charter,¹⁰² since they each result in the taxpayer being over-charged for taxes. Many of these cases are resolved by the IRB since in some cases there is no legal basis for such charges (such as for coffee shops when the assessment is based upon observation and no documented proof such as receipts); however, they do not pass without consequences for taxpayers since according to Article 82 of the Law No. 03/L-222 on Tax Administration and Procedures, taxpayers are obliged to continue paying any liability due plus interest even during the appeal

¹⁰² Taxpayers' Charter, TAK, 2009, pg 8

proceedings. Although such obligations are conforming to the tax legislation, they impact the normal functioning of the businesses by imposing unforeseen cash flow difficulties whether they are innocent or not.

Moreover, based on the same article of the law, if the case is finally resolved in favor of the taxpayer, TAK should refund any excess amount of tax paid, together with interest on the amount; however, two of the taxpayers interviewed claimed that such a refund does not occur. Not only do they not get refunded the principal amount, but interest is not calculated at all. Rather, the amount to be refunded is kept as a credit balance on the taxpayers' account to be deducted from their future liabilities. Taking into consideration the time value of money, this practice results in a net loss for taxpayers especially when the case is for large amounts of money since this amount is not compounded and its net present value is lower than the amount that could be reimbursed.

A Case Study of 3CIS

3CIS is a Kosovar company which started operating in November 2008. Since its foundation, 3CIS has continuously recorded a yearly growth rate of at least 25%, while maintaining a positive cash flow balance and no debt.¹⁰³ The company provides highly specialized services to some of the largest telecommunication carriers around the world. Over 5 years of its operations, 3CIS has proudly enjoyed and shared its success, whereby in 2011 it was awarded as the Best Small/Medium Sized Business Award by the Ministry of Trade and Industry, as well as the Best Exporter by the Association of Exporters of Kosovo; however, in early April, 2014, a sad story of the company was revealed by a press release from 3 of its Board Members. The article “3CIS under fire by the Tax Administration of Kosovo” published by a local portal www.perkrahje.com presents an in-depth description of the difficulties 3CIS faced in an audit process from TAK and appeal procedures following it.

The company was lately “put through an exhaustive financial audit of all years of operation.”¹⁰⁴ Overall, its total turnover for 5 years of operation was found to be around \$20M. The audit revealed that 3CIS’ book accuracy was around 99.999954%, with only an amount of around 70 Euros being owed by 3CIS to the Tax Administration. 3CIS states that “TAK acknowledged that they have never encountered a company with such well-kept and accurate records,” but “in the absence of any discrepancy or obligation being found during the audit, 3CIS was illegitimately served with penalties for non-payment of VAT.”¹⁰⁵ However, according to the company, they should not be liable for VAT charges since all of their services are exports and all of their customers are outside of Kosovo. According to 3CIS, this penalty was charged upon a misinterpretation of the law and the “place of supply” definition in particular. “Place of supply” is understood to be the place where goods or services are consumed, which in 3CIS’s case is the rest of the world and not Kosovo. Although 3CIS claims that it possesses documentation from TAK itself which shows that VAT is not chargeable for them, TAK continued to force the company to pay the penalty and in addition, they report that they were threatened for greater penalties if they were not to pay immediately.

¹⁰³ 3CIS website: www.3cis.net

¹⁰⁴ Tali, Pula, & Krzyzanowski

¹⁰⁵ Tali, Pula, & Krzyzanowski

As a result, 3CIS ended up with an unplanned bill of 530,000 Euros, as a result of which it had to significantly cut on costs to be able to pay. Labor, being the greatest cost for the company, suffered the most severely, whereby the company was forced to lay down 20% of its labor force. Additional costs were also incurred for legal and financial consulting services following multiple appeals to the tax administration; however, such costs were simply a waist since the company received a negative response through all its appeal procedure. Article 78 of the Law on Tax Administration and Procedures (Law No.03/L-222) states that “Members of the Board shall be proposed by Government... and appointed by the Assembly” and “The Board shall consist of a Chief Member and sixteen other members, all of whom are independent of the Ministry of Finance.”¹⁰⁶ However, as 3CIS claims, the board for reviewing their case simply was another group of TAK staff, which is contrary to the tax legislation and the requirement that they be independent of the Ministry of Finance.

Further on, 3CIS continued to appeal, to the Tax Administration of Kosovo, to the Ministry of Finance, as well as the American Chamber of Commerce, but did not receive any significant support in resolving the issue from either of them.¹⁰⁷ As a result, they are now pursuing court proceedings, and although they have already filed their case, the division handling such cases has not yet begun treating such issues. In the meantime, 3CIS claims the penalty imposed upon them unjustly is impairing their normal functioning and forcing them to consider moving the business outside of Kosovo.

Taking 3CIS as a specific case and comparing it to the results of the interviews and surveys, the following issues can be highlighted:

- The fact that 3CIS claims it was charged illegitimately based upon a misinterpretation of the law and the term “place of supply” reinforces the idea that there are gaps and inconsistencies in the tax legislation which leave room to possibilities for misinterpretation and manipulation with the law.
- As other businesses have previously stated during the interviews and as 3CIS states in their article, they have received threats from inspectors that they can be imposed even harsher penalties should they now agree to the already imposed charges.

¹⁰⁶ Tax Legislation of Kosovo, pg. 253

¹⁰⁷ Tali, Pula, & Krzyzanowski

- While 3CIS was charged with a significantly large amount of penalty, the costs of the whole procedure were also increased by the costs incurred during the appeal procedure, and they continue to face costs as they wait for a higher review of the case from the court. Such costs impair the normal functioning of the business.
- Due to such actions from inspectors and other relevant authorities, there is a loss in trust between the taxpayer and the tax authority as well as a worsening of the relationship between the two.
- As a result of this worsening of the relationship and loss of trust, investments are discouraged due to the fear of such events in the future. Moreover, while new investments are discouraged, existing businesses find incentives to move their activity outside of Kosovo, such as 3CIS.

As a result of the above outlined issues, the following rights of taxpayers are violated:

- The right to fair and equal treatment: which is violated since they are not treated fairly but are imposed charges for which they should not be liable for. While such a treatment is not fair in the sense that certain companies are forced to pay what they are not obliged to, it is also not equal because these companies, 3CIS in this case, is treated unequally to other companies which do not receive such treatment and penalties.
- The right to pay only the correct amount: which is violated as a result of the unfair and unequal treatment. Since due to such treatment 3CIS and businesses in similar situations are imposed charges above the level for which they are legally liable for, their fundamental right to pay no more than the correct amount is directly violated by the amount of taxes they pay in excess of their true liability.
- The right to appeal: which is either directly violated in 3CIS's case where the IRB consists of TAK employees or indirectly is damaged by the inefficient, long and exhaustive procedures which make it more difficult for businesses to appeal

Conclusion and Recommendations

The purpose of this project was to analyze cases of violations of taxpayers' rights in order to identify the factors leading to it and the implications for the taxpaying community and the economy, as well as to generate recommendations which could serve to improve the protection of taxpayers' rights. The review of literature on the topic showed the importance of protecting taxpayers' rights by the authorities in order to build a mutual trust between taxpayers and tax authorities, which further on contributes to a more effective and functional tax system.

Taking into consideration that tax evasion is high in Kosovo any action to improve compliance by taxpayers should be welcomed. According to Hofman, Hoelzl and Kirchler (2012), there are two ways to increase the citizens' inclination to pay taxes: either to force them to pay through audits and fines or motivate them to comply voluntarily. However, forcing increased compliance would result in greater costs due to increased audits and inspections, and it has not been proven successful so far in increasing compliance since evasion remains to be significantly high in our economy. On the other hand, a less costly improvement in the system would be to create mechanisms through which taxpayers' rights are guaranteed to be protected in order to gain their trust.

The information collected through interviews and surveys has showed that taxpayers' rights are occasionally violated and taxpayers hesitate to appeal in protection of their rights due to fear of even greater consequences and losses for them. Some of the most frequent appeals to the Independent Review Board have been due to over-charging in taxes by tax inspectors. Such actions have violated the taxpayers' right to pay no more than the correct amount and have resulted in greater costs for businesses. Further on, another issue with enforcing taxpayers' rights is related to inefficient procedures both for appealing and reimbursement. The responses of businesses interviewed and surveyed have showed that they hesitate both to appeal and request reimbursement when they have the right to because the costs of doing so outweigh the benefits. While the smaller taxpayers who are not familiar with the process are advised by their accountants to not proceed with such processes, the larger businesses are aware of the process but claim that they will have inspectors sent for reviews immediately after they file a request, which based on their experience ends with the taxpayer being charged a penalty.

The cases of violation analyzed during this research show that there are consequences beyond the costs incurred by the individual taxpayers. Cases such as the 3CIS lead to greater consequences for the economy by posing barriers to doing business in Kosovo and paying taxes. In the current state of our economy, new businesses and investments should be promoted and current taxpayers supported, not de-motivated.

In order to tackle the issue of taxpayers' rights and lower the level of their violation, several recommendations emerge from this research, based upon the results for the most frequently reported problems in the tax system.

- TAK initially needs to review and improve the tax legislation in Kosovo since the inconsistencies and gaps within the law have been reported to be misused to the taxpayers' disadvantage. Once the tax legislation is complete and comprehensible, automatically taxpayers' rights are protected more strongly because there is no gap in there for the authority to be able to misinterpret it. With good legislation, there is less room for it to be misused and twisted. As a result, taxpayers are treated with respect and fairness. There is much more research done on this topic which can be used to improve the legislation from another Honors Project: "Inconsistencies of the Tax Legislation of Kosovo" by Rineta Hoxha.
- Since a major problem based on the research appeared to be lack of awareness regarding rights and the legislation, it is important to educate taxpayers because with their education, the whole tax system will benefit. If individual taxpayers are educated and know their rights and procedures they will also be able to defend themselves. In order to improve the level of education the Tax Administration of Kosovo already invest in trainings and seminars; however, in order for taxpayers to be familiar with their rights, these seminars must also give attention to them, since as it was also stated during the analysis, the seminars with taxpayers which TAK holds focus on the fulfillment of obligations by taxpayers and not their rights.
- Also, since the appeal procedure also resulted to be one of the major issues and is in fact in itself critical to protecting taxpayers' rights because through appeals they fight for their

rights, an improvement could be made in the appeal procedure. One of the most simple actions which can be taken by the tax authorities to improve this situation is to enable an electronic appeal procedure. TAK has already enabled electronic declarations of their taxes for taxpayers and many other electronic services through their website; therefore, enabling appeals to be filed electronically would enhance their right to appeal. It would become much easier for taxpayers to appeal and less costly since it would take them much less time and resources to do so.

Although there are significant issues with the tax system in Kosovo which lead to violations both by taxpayers and tax authorities, these simple actions would contribute to lowering the level of taxpayer rights violations.

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Appendices

MoF official interview

1. How do you view an effective tax system? (Describe how you think an effective tax system should function)
2. How important do you think are taxpayer rights for a tax system? What is the significance of taxpayers' rights in the tax system?
3. What are the elements of a good taxation system?
4. The right to be served by TAK is one of the basic rights of taxpayers. How well is TAK currently doing in serving taxpayers and respecting their rights?
5. According to literature, taxpayers have the right to certainty, which requires that taxpayers' rights and obligations are clearly stated by law. Does the current Tax legislation in Kosovo clearly state taxpayers' rights and obligations? Are they stated in a manner which can be understood by taxpayers taking into consideration that they come from different educational backgrounds?
6. Is the current level of taxpayer education sufficient for them to meet obligations and understand their rights?
7. TAK states that one of its main missions is to increase voluntary compliance. What are the crucial factors which will enable this/ what should TAK focus on?
8. What is the Ministry's role in tax administration and the effective functioning of TAK?

TAK official interview

1. How important do you think are taxpayer rights for a tax system/ What is the significance of taxpayers' rights in the tax system?
2. What are the elements of a good taxation system?
3. The right to be served by TAK is one of the basic rights of taxpayers. How well is TAK currently doing in serving taxpayers and respecting their rights?
4. According to literature, taxpayers have the right to certainty, which requires that taxpayers' rights and obligations are clearly stated by law. Does the current Tax legislation in Kosovo clearly state taxpayers' rights and obligations? Are they stated in a manner which can be understood by taxpayers taking into consideration that they come from different educational backgrounds?
5. Is the current level of taxpayer education sufficient for them to meet obligations and understand their rights?
6. Do taxpayers frequently request assistance in completing the required documentation?
7. Do taxpayers frequently inquire regarding their rights?
8. TAK states that one of its main missions is to increase voluntary compliance. What are the crucial factors which will enable this/ what should TAK focus on?
9. TAK holds trainings and has held several until now with taxpayers, with the purpose of educating them and helping them meet their obligations and understand tax procedures,

but have there ever been any trainings to raise awareness among taxpayers regarding their rights?

10. How do tax authorities ensure that taxpayers' privacy is protected and their information is kept confidential?
11. Are TAK employees professionally prepared to assist taxpayers?
12. Have there been any complaints from taxpayers regarding service from TAK?
13. What do taxpayers most frequently ask about or request help?
14. Do TAK employees report difficulty in assisting taxpayers or explaining procedures to them? (do taxpayers have difficulty in understanding them?)

Taxpayer – Interview Business

1. Do you know your basic rights as a taxpayer? Can you mention some?
2. Do you know the different types of Taxes in Kosovo and the tax rates?
3. Are you aware that one of the fundamental rights as a taxpayer is the right to be served?
4. Have you ever read the tax laws? Could you understand them?
5. Have you ever read anything about taxpayers' rights in Kosovo?
6. How would you rate TAK's service from 1 to 10?
7. Do you know about the taxpayers' education division?
8. How well do you think is TAK currently doing in serving taxpayers and respecting their rights?
9. Are you aware that you have the right to seek assistance in completing the required documentation should you not understand what is required? Would you be willing to request help? Would you know where to request it?
10. Based on the right to pay only the amount required, you are entitled to claim a refund in case of a credit balance in your account. Do you know when you can claim a refund and how to do so?
11. Have you ever claimed a refund? If yes, have you ever received it? If not, where you not eligible for it or why
12. Which rights are the most important for you, which if violated would to a loss in trust between you and TAK?
13. Have you ever felt that your privacy has been violated or confidentiality not respected in dealing with TAK?
14. Would you know whom to approach if you have a complaint against any TAK official or any request?
15. Are you aware of your right to appeal and the procedure of appeals?
16. Have you ever appealed against a TAK decision?
 - a) if Yes, was your appeal taken into consideration and how did it go?
 - b) If No, is that because you never had a reason to or you had a reason to but did not do so.
17. Do you know within how many days TAK is obliged to inform you about your appeal?

18. Are you aware of a separate division with TAK, the Appeals Division and what its role is?
19. Do you know what the IRB is and its role?
20. Have you ever been charged for a penalty from TAK? If yes, were you previously informed regarding it? Do you know that you have the right to request a relief from the penalty?
21. Have you ever had any difficulty calculating your tax obligations or understanding the tax legislation?
22. Do you think TAK has professional employees? Have you been treated fairly by them?
23. Would you be more willing to comply to your obligations if you perceive that TAK works efficiently and fairly, as compared to if you perceive that they work unjustly?
24. Have you ever heard of an individual or business which has had a problem with TAK or difficulty with taxes?

Taxpayer – Interview Individual

1. Do you know the different types of Taxes in Kosovo?
2. Do you know the tax rates in Kosovo?
3. Are you employed, if Yes, do you have more than one job? Do you know the difference between the principal employer and other employers?
4. Do you know the different rates on personal income tax?
5. Do you know your basic rights as a taxpayer?
6. Are you aware that one of the fundamental rights as a taxpayer is the right to be served?
7. How well do you think is TAK currently doing in serving taxpayers and respecting their rights?
8. Are you aware that you have the right to seek assistance in completing the required documentation should you not understand what is required? Would you be willing to request help? Would you know where to request it?
9. Based on the right to pay only the amount required, you are entitled to claim a refund in case of a credit balance in your account. Do you know when you can claim a refund and how to do so?
10. Have you ever claimed a refund? If yes, have you ever received it? If not, where you not eligible for it or why?
11. Which rights are the most important for you, which if violated would to a loss in trust between you and TAK?
12. Would you know whom to approach if you have a complaint against any TAK official or any request?
13. Are you aware of your right to appeal and the procedure of appeals?
14. Have you ever appealed against a TAK decision?
 - a) if Yes, was your appeal taken into consideration and how did it go?

- b) If No, is that because you never had a reason to or you had a reason to but did not do so.
15. Do you know within how many days TAK is obliged to inform you about your appeal?
 16. Are you aware of a separate division with TAK, the Appeals Division and what its role is?
 17. Do you know what the IRB is and its role?
 18. Are you aware that you have the right to request a hearing should you wish to do so?
 19. Have you ever been charged for a penalty from TAK? If yes, were you previously informed regarding it? Do you know that you have the right to request a relief from the penalty?
 20. Do you think TAK has professional employees, have you been treated fairly by them/
 21. Have you ever had any difficulty calculating your tax obligations?
 22. Would you be more willing to comply to your obligations if you perceive that TAK works efficiently and fairly, as compared to if you perceive that they work unjustly?

Survey – with businesses

1. Are you aware of your basic rights as a taxpayer?
2. Are you aware of the different tax rates in Kosovo?
3. Are you aware that one of your basic rights as a taxpayer is the right to be served by the Tax Administration of Kosovo?
4. How well do you believe is TAK serving taxpayers from a scale of 1 to 10 (10 being the best)?
5. Have you ever read anything regarding taxpayers' rights?
6. Are you aware that you have the right to seek assistance from TAK regarding your tax obligations?
7. Would you be willing to request assistance should you need it and would you know whom to approach for it?
8. Based on your right to pay only the amount liable for, you have the right to claim a refund if you end up with a credit balance in your account. Do you know how to request the refund?
9. Have you ever requested a refund?
10. Have you ever read the tax legislation of Kosovo? If Yes, have you had any difficulty understanding it?
11. Do you know whom to approach should you have a complaint against TAK?
12. Have you ever filed a complaint for TAK?
13. Do you know within how many days TAK is obliged to inform you regarding a complaint/request you have filed?

Survey with individuals

1. Do you know what your basic rights as a taxpayer are?
2. Have you ever read anything about taxpayers' rights?
3. Have you ever read or looked at the tax legislation of Kosovo? If yes, have you had difficulties in understanding it?
4. Are you aware that one of the fundamental rights as a taxpayer is the right to be served?
5. How well do you believe is Tax Administration of Kosovo currently serving taxpayers (from 1 to 10, 10 being the best)?
6. Are you aware that you have the right to seek assistance in completing the required documentation should you not understand what is required?
7. Are you aware of your right to appeal and the procedure of appeals?
8. Would you know whom to approach if you have a complaint against any TAK official or any request?
9. Do you know the different types of Taxes in Kosovo? Do you know the tax rates in Kosovo?
10. Have you ever claimed a refund? If yes, have you ever received it?
11. Do you think TAK has professional employees, have you been treated fairly by them?
12. Have you ever had any difficulty calculating your tax obligations?